



MINUTES OF THE GILA COUNTY

BOARD OF ADJUSTMENT

Thursday April 18, 2019

9:00 AM

GILA COUNTY BOARD OF SUPERVISORS CONFERENCE ROOM

610 E. Highway 260, Payson, AZ

GILA COUNTY COMMUNITY DEVELOPMENT CONFERENCE ROOM

745 N. Rose Mofford Way, Globe, AZ

REGULAR MEETING

1. The meeting was called to order at 9:00 A.M. by Chairman Mickie Nye.
2. Pledge of Allegiance was led by Michelle Dahlke.
3. Roll Call: Michelle Dahlke did the roll call; Mickie Nye (in Payson), Bill Marshall (in Globe), and Mary Lou Myers (absent). A quorum is present.

Community Development Staff Members Present: Senior Planner, Michelle Dahlke, Administrative Assistant, Shealene Loya and Director, Scott Buzan.

4. Review and Approval of the Board of Adjustment Minutes on March 21, 2019. Chairman Nye asked if there were any changes needed to the minutes. No changes were suggested. Mr. Marshall motioned that the minutes be approved as is and Chairman Nye seconded the motion. The motion was unanimously approved.

5. **Director/Planner Communication:**

Mr. Buzan introduced Shealene Loya as the new Community Development Administrative Assistant.

Mr. Buzan also gave an update on a case that was brought before the board last year involving Mr. Pfeil and Ms. Head applying for a Use Permit to allow pot-bellied pigs on their property. The permit was denied, and the denial was upheld by the board. A zoning violation was opened against Mr. Pfeil and Ms. Head because they did not remove the pigs in the amount of time that was given to them. The case went before the hearing officer who found in favor of the County and ordered the pigs be removed. Mr. Pfeil and Mrs. Head exercised their right for a review of the hearing officer's final judgment per the Hearing Officer Rules and Procedures. The case was heard by the Board of Supervisors on March 25th, 2019. Mr. Pfeil stated that he was going to list the property for sale and move. The board sent the case back to Community Development to work with Mr. Pfeil while he was in the process of selling his property. Earlier this week, Mr. Buzan spoke with Mr. Pfeil about various stipulations. His property is to be listed with a real estate agent within a couple of weeks and a "For Sale" sign be posted in the front yard, if the property doesn't sell within the next 180, the pigs will need to be removed and limited to the number of pigs to the current amount of 9, Mr. Pfeil is to allow Community Development and Animal

Control Inspectors onto his property a minimum of twice a month to inspect for animal stink, excessive flies and insects, excessive feces, or animal cruelty and remedy any violations within 24 hours and to be unfrontational with neighbors and County staff. Mr. Pfeil was receptive to most of the stipulations and Mr. Buzan is currently working with the Assistant County Manager and County Manager on a response to those stipulations that Mr. Pfeil is not in agreement with.

Mr. Nye stated that he realizes this case has been a year long challenge and looks forward to this issue being resolved soon.

Public Hearing:

6. **AV-18-22 Beaver Valley Improvement Association:**

The application was approved by Gila County Community Development and appealed by Michael Armstead.

Mr. Buzan thanked Chairman Nye and stated that we have not received an agreement from either party involved and we have not received anything from a legal authority to determine which party's information is accurate and legal. Mr. Buzan stated that there was no report prepared because what the board requested at the January meeting has not been fulfilled.

Chairman Nye addressed Mr. Marshall and explained that when the board is addressed with unresolved situations, he has asked the staff to give timely updates as to where we are in the process. Chairman Nye stated that he spoke to Mr. Buzan about this case and rather than keeping the conversation between the two of them, he has elected to let the Board of Adjustment members know the progress of the case as a way of reporting back to the Board. He also went on to state that in the past, the board has made decisions and moved on without hearing the status of the things that were discussed. This is a way to keep updated on what is going on in Community Development and how the board's decisions are being followed up on.

Mr. Marshall agreed that this was a good idea.

Mrs. Dahlke stated that she had let Anne Stoppa, President of the Beaver Valley Improvement Association, and Michael Armstead of the Beaver Valley Water Company know that the board might entertain hearing a comment or two regarding this case.

Chairman Nye stated that he was eager to hear from the parties, but no decision would be made this day. The board was willing to take any new materials that the parties may present but would not be making any decisions until the issues between the parties is resolved. Chairman Nye then opened the floor to the parties to speak.

Michael Armstead volunteered to speak first. Mr. Armstead stated that he brought new materials for the board to review, which included an original plat plan for a structure that states it is 25' away from the property boundary, contrary to the 16' structure that is now encroaching on the utility easement, and a document with the heading "In the Matter of the Application Beaver Valley Development Company Doing Business as Beaver Valley Water Company". Mr. Armstead stressed the importance of the second documentation and stated that it gives grants to right of way easements in perpetuity if they can achieve a Certificate of Convenience and Necessity (CC&N) which he claimed had been achieved by 5 Arizona commissioners. Mr. Armstead went on to say that he does not know how the structure came to be. He informed the Board that the Beaver Valley Improvement District has hired an attorney and the Water Company has responded to that attorney, of which Mr. Armstead supplied the letters, responses, legals and statutes in his packet. With the letter, the attorney provided photographs to determine where the water main is located. Mr. Armstead claimed that he has never seen the water main. Per statute, the water company began an excavation. When they reached the foundation of the structure, they discovered that the service line had been taped to the copper line going into the building and encased in concrete, to which Mr. Armstead claimed was tampering with the utility prior to pouring foundation and the tape hid it from the County and inspectors. Mr. Armstead concluded his presentation by stating that he believes there is no deed of ownership of the property to the Beaver Valley Improvement Association.

Anne Stoppa proceeded to give her presentation in which she stated that Beaver Valley Water Company has the association's cease and desist. She informed the Board that their attorney is pursuing a Quiet Title action at this time. Mrs. Stoppa stated that the Board is in possession of a survey and chain of title showing deed of ownership.

No other parties volunteered to speak.

Mr. Buzan suggested to Chairman Nye that this case be tabled for a certain period of time to which he, Mrs. Dahlke and the County Attorney agreed.

Mr. Nye motioned to move the case for 6 months.

The motion was seconded by Mr. Marshall.

The motion unanimously passed.

7. V-19-02 Daniel & Shauna Rensch:

The applicant is requesting a variance to obtain a 7' rear yard setback to convert an exiting attached carport to livable space and an 18' front yard setback for a new attached addition.

Mrs. Dahlke thanked Chairman Nye and proceeded to give some background information regarding the property. She stated that the house was constructed in 1982 and additions and

repairs were done in 1988. The current owner purchased the property in 2018. The owners want to obtain a variance from the rear and front yard setback requirements. On the rear of the property, they want to enclose an existing carport and convert it to livable space and also want to add a bedroom to the front of the property. They are unable to meet the current 20' front and rear yard setbacks. Community Development staff evaluated the owners' request against the 4 variance requirement criteria in the current zoning ordinance, per section 101.3H, and concluded that the variance does meet the requirements. Mrs. Dahlke went on to explain that there are special circumstances that exist that limit the ability for the property owners to make any changes to their property, including the shape of the lot and the leach field and septic location on the west side of the property. She continued to state that she does not believe that granting this variance would grant the property owners a special privilege that other property owners in the zoning district would not have. Any property owners can present their hardships to the board and have it evaluated. Also, Mrs. Dahlke doesn't believe that this situation is self-imposed by the current property owners. Mrs. Dahlke continued to state that when the property was originally inspected by the County and permitted in its current location, which was 7' from the rear yard setback, she believes that the rear yard setbacks were rarely enforced adjacent to National Forest land at the time. The shape of the lot creates a challenge to meet the 20' front yard setback. Mrs. Dahlke states that the property really narrows out, restricting the use of that area of the property. Regarding this variance, there is no new zoning designation, no extension of any non-conforming use, and no changes in the use, which meets the fourth criteria under the variance requirements in the zoning ordinance. Mrs. Dahlke concluded her presentation by stating if there are any questions, she would be happy to answer them.

Chairman Nye stated he had no questions and liked the documentation that was provided because it painted a good picture as to why this variance needs to happen.

Mr. Marshall also stated that he had no questions and added that he sees no adverse impact to the surrounding neighbors.

Chairman Nye opened the discussion to the public for any comments. No one from the public spoke.

Mr. Marshall motioned to approve the variance.

Chairman Nye second the motion.

No one opposed.

The variance from unanimously approved.

8. Adjournment. Chairman Nye made a motion to adjourn the meeting and Mr. Marshall second the motion. The motion to adjourn was unanimously approved at 9:20 A.M.

